GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Backward Classes Welfare Department – Establishment – Revised Proposal of Director, BC Welfare for assigning notional promotion to Sri T.Srinivasa Rao, HWO Gr.II, GBCBH, Sarvayapalem, Sri Syed Shajahan, HWO Gr.II, GBCBH, Gottiprolu and Sri P.Venkata Swamy, HWO Gr.II, GBCBH Ozili, SPSR Nellore District in the cadre of HWO Grade-I on par with his immediate junior Sri. I.Srihari, HWO, Gr.I (Retd) w.e.f 29.09.2010 – Revised Orders – Issued – Reg.

BACKWARD CLASSES WELFARE (A) DEPARTMENT

G.O.RT.No. 58 Dated: 21-03-2017
Read the following:-

1. From the Director, BC Welfare, A.P, Hyderabad, Lr. Rc.No.E/ 665 /2016, Dt: 28.06.2016 and dt.01.11.2016.
2. G.O Rt.No.7, BC Welfare (A) Dept,dt.20.01.2017.
3. Revised proposal from the Director, BC Welfare, AP, Hyderabad, Lr. Rc. No. E/ 665 /16, Dt.28.02.2017.
4. From Hon'ble High Court, orders in WPMP No.8541 of 2017 in WP NO.6947 of 2017, Dt.01.03.2017.

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ORDER:

In the circumstances reported by the Director, BC Welfare, A.P.Vijayawada in the reference 3rd read above and after careful re - examination of the matter and in supersession of the orders issued in the reference 2nd read above Government hereby assigning notional promotion to Sri T.Srinivasa Rao, HWO Gr.II, GBCBH, Sarvayapalem, Sri Syed Shajahan, HWO Gr.II, GBCBH, Gottiprolu and Sri P.Venkata Swamy, HWO Gr.II, GBCBH Ozili, SPSR Nellore District in the cadre of HWO Grade-I on par with his immediate junior Sri. I.Srihari, HWO, Gr.I (Retd) w.e.f 29.09.2010 in relaxation of Rule 33(a) APSSSR,1996, in the following reasons.

i. The Hon'ble APAT has issued direction to the respondents to "consider" the case of the applicants No.s 1 to 5 for promotion to the post of HWO Gr.II w.e.f.28.10.2009 and w.e.f 29.09.2010 in respect of applicant No.6 with notional benefits subject to outcome of the Writ petitions including W.P.No.37168/2012 pending before the Hon'ble High Court regarding G.O.Rt.No.45, dt.03.02.2010 and validity of 16 (h) of APSSS Rules, 1996.

ii. The Hon'ble APAT has clearly defined the meaning of "consider" in another Orders, dt.14.06.2016 in O.A.No.2140/2016 filed by Sri Abdul Khuddus. The Direction "to consider" does not mean that the applicants alone should be considered. They Should be considered only if they are eligible as per rules along with other eligible candidates.

iii. Accordingly, the proposal of the Dist Collector, SPSR Nellore Dist was examined as per seniority and other eligibility criteria under the rules and found the APAT orders for according notional benefits are based on the common seniority list. Dt.08.07.2004 which is non-existent. The applicant places / position in the seniority list,dt.08.07.2004 are indicated at Sl.No.21,22,27,29,30 & 33. In fact the Applicants positions / places in the HWO Gr.II (Male) are revised in the final seniority list, dt.05.01.2008 and indicated at Sl.No.7,8,11,13,14 & 17.

iv. In the Hon'ble APAT orders, it was mentioned that applicants juniors who stands at Sl.No.32,43, & 44 was promoted w.e.f. October,2009 and September,2010 is correct as per the seniority list, dt.08.07.2004 but, the seniority list,dt.08.07.2004 was revised on the basis of A.P. High Court orders in W.P.No.13283/2007, dt.11.09.2007 in which the Hon'ble High Court ordered preparation of separate seniority list for HWO's Gr.II (Male) and HWO Gr.II (Female).

v. Accordingly, separate seniority list for HWO's Gr.II (Male) and (Female) was prepared and published on 05.01.2008 and promotions are effected basing on

the separate seniority list and separate cadre strength fixed for HWO Gr.I (Male) and HWO Gr.I (Female).

vi. In the separate seniority list for HWO's Gr.II (Male), the applicants seniority position in common seniority list, dt.08.07.2004 was changed from 21,22,27,29,30 & 33 to 7,8,11,13,14 & 17 in separate seniority list, dt.05.01.2008 whereas, the seniority list in respect of 43,44 in the common seniority list,dt.08.07.2004 was changed to Sl.No.2,3 separate seniority list, dt.05.01.2008. With regard to junior mentioned at Sl.No.32 in the common seniority list, dt.08.07.2004, it was changed to 16 in separate seniority list,dt.05.01.2008.

vii. Sri I.Sreehari who stands at Sl No.32 in the common seniority list, dt.08.07.2004 and stands at Sl.No.16 in the separate seniority list, dt.05.01.2008 was found to be junior to the Applicants No.1 to 5 in both the seniority list. Therefore, the Applicants are entitled for notional promotion w.e.f.29.09.2010, the date on which the applicants immediate junior was promoted, instead of 28.09.2009 the date on which Smt B.J.Thejovathi and Smt M.Sridevi who stands at Sl No.2 and 3 in the separate seniority list dt.05.01.2008 are promoted as HWO Gr.I (Female) based on separate seniority list mentioned for HWO Gr.II Female.

viii. Meanwhile, the Government in BC Welfare Dept has issued G.O.Rt.No.45 BCW(A) Dept, dt.03.02.2010 in which the date of commencement and declaration of probation was raised in respect of 26 HWO's of SPSR Nellore Dist. After the issue of the said G.O.Rt.No.45, no steps have been taken for preparation and publication of seniority list i.e., preparation of provisional seniority list, calling for objections, settlement of objections and publication of final seniority list , which is statutory procedure to be adopted. However Sri I,Sreehari who stands at Sl No.6 in the said G.O. was promoted as HWO Gr.I (Male). Subsequently, G.O.Rt.No.45 was set-aside by the same was challenged by the Govt in the Hon'ble High Court in W.P.No.12381/14 and obtained status quo order on 22.04.2014. Therefore, no further action was taken place i.e., process involved in the preparation and publication of final seniority list in accordance with G.O.Rt.No.45, BCW (A) Dept, dt.03.02.2010. Hence, the validity of seniority list,Dt.05.01.2008 holds good.

ix. Considering all the facts and circumstances of the issue, notional promotion was accorded to the Applicants No.1,2, & 4 i.e., Sri T.Srinivas Rao, Sri Sd.Shahjan and Sri P.Venkata Swamy w.e.f.29.09.2010, the date on which their immediate junior Sri I. Srihari was promoted a HWO Gr.I (male) instead of 28.10.2009, since Smt B.J.Thejovathi and Smt M.Sridevi who are considered as Juniors, are actually promoted as HWO Gr.I (Female) on basis of separate seniority list, dt.05.01.2008 and as per cadre strength fixed for HWO Gr.I (Female) category.

x. Applicant No.3 & 5 who stands at Sl.No.11,14 in the separate seniority list, dt.05.01.2008, promotion was not given due to pending displinary case in respect of Applicant No.3 and in respect of Applicant No.5, promotion was effected due to non passing of prescribed departmental test.

xi. With regard to Applicant No.6, it is found that no junior in the revised final seniority list, dt.05.01.2008 was promoted earlier to the applicant and hence not eligible for notional promotion. However, he was promoted as HWO Gr.I w.e.f.22.07.2016 on regular basis.

xii. The orders of the Hon'ble APAT for according notional promotion w.e.f 29.09.2009 in respect of Applicant No.1 to 5 and w.e.f 29.09.2010 in respect of Applicant No.6 cannot be implemented, since; the petitioner in WPMP No.8541of 2017 in W.P No.6947/2017 will be effected both in terms of their seniority as well as the posts that they are holding as on date.

2. The Director, BC Welfare, A.P. Hyderabad shall take necessary action in the matter accordingly.

3. This order is available in the Internet and can be accessed at the address http://www.ap.gov.in/goir.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)
G.ANATHA RAMU
PRINCIPAL SECRETARY TO GOVERNMENT (FAC)

To
The Director, BC Welfare, AP, Vijayawada.,
The Individual through Director, BC Welfare, AP, Vijayawada,
The District Collector, SPSR Nellore Dist,
Copy to:
The OSD to M (BCW)
The PS to Principal Secretary to Government, BCWD.
The Dist BCWO, SPSR Nellore Dist.,
The Govt Pleader (BCW), APAT, Hyderabad.
SF/SC

//FORWARDED::BY ORDER//

SECTION OFFICER